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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/256,981	02/24/99	DRIGGARS	S 4050-002

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QM32/0825

EXAMINER

FALIK, A

ART UNIT	PAPER NUMBER
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3741

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DATE MAILED: 08/25/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/256,981

Applicant(s)
Driggars

Examiner
Andy Falik

Group Art Unit
3741



☒ Responsive to communication(s) filed on Jul 13, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 3-8, and 10-25 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1, 3-6, 13-23, and 25 is/are allowed.

☒ Claim(s) 7, 8, 10-12, and 24 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Drawings

Pursuant to the 8/17/00 Petition Decision either pen and ink drawings or better quality photographs complying with 37CFR 1.84(b)(I)(ii) must be submitted before this case can be passed to issue.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7,8,10-12, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by the plain gauge knitted fabric designated by Staple No.1 in Table 1 in col.7 in 4,071,502. This reference was applied against the claims 1,6-12,23 and 24 in the last Office action. The staple length, filament denier, and fiber type limitations in claims 7,8,10-12 are disclosed in columns 3&4 in the reference. Specifically, a filament denier of less than 1.5 is disclosed on line 57 in column 3.

Pursuant to Applicant's remarks on page 3 in the 7/13/00 Amendment claims 8-12 were erroneously indicated as allowable under the Allowable Subject Matter section on page 3 in the

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last Office action, however they were also correctly rejected under 102(b) on this page. They were also indicated as rejected in the Office action summary which accompanied said last Office action. Accordingly, incorporation of claim 9 into independent claims 7 and 24 does distinguish them over '502. Applicant's patience is respectfully solicited over the confusion created by the incorrectly indicated allowable claims. Additionally, a supplemental PTO-892 is included with this Office action reciting the '502 patent.

Allowable Subject Matter

Claims 1,3-6,13-22,23, and 25 are allowed.

Conclusion

Any inquiry to the merits of this office action or to any specific features of this communication or earlier communications from the examiner should be directed to Andy Falik whose telephone number is (703) 308-1283. The examiner can normally be reached on Monday-Thursday from 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Calvert can be reached on (703) 305-1025. The fax phone number for this Group is (703) 305-3588.

Any inquiry of a general nature such as a missing reference or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861. Any inquiry relating to the drawings should be directed to the Drafting Branch whose telephone number is (703) 305-8404.


**ANDY FALIK
PRIMARY EXAMINER
GROUP 3741**

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AMF

August 21, 2000